

11/17/97

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

Ex parte ODETICS, INC.

NOV 8 - 1996

Appeal No. 96-2118
Reexamination Control No. 90/003583¹

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ON BRIEF

Before KRASS, JERRY SMITH and BARRETT, Administrative Patent Judges.²

JERRY SMITH, Administrative Patent Judge.

ON REQUEST FOR RECONSIDERATION

Appellant requests that we reconsider our decision of August 14, 1996 wherein we sustained the rejection of claims 1-11 as unpatentable under 35 U.S.C. § 103.

¹ Request filed September 29, 1994 for the reexamination of U.S. Patent No. 4,654,727, granted March 31, 1987, based on Application 06/720,591, filed April 8, 1985.

² CARDILLO, Administrative Patent Judge, who participated in the original decision, retired from the Patent & Trademark Office before this request for reconsideration was acted upon, and therefore, he did not participate in this decision on reconsideration.

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Appellant points to several features of claims 1 and 11 which, it is asserted, have been misapprehended or overlooked by the Board in rendering its original decision. Appellant asserts that such errors in the original decision are grounds for reversing the decision with respect to claims 1-11.

We have reconsidered our decision of August 14, 1996 in light of appellant's comments in the request for reconsideration, and we find no errors therein. We, therefore, decline to make any changes in our prior decision for the reasons which follow.

Before considering appellant's arguments on the merits, we briefly consider appellant's concern with our use of the term "disingenuous" in the original decision. It was used to characterize an impression this panel had which had no legal implications whatsoever. We did not intend to imply that appellant had in any way failed in its duty of candor under 37 CFR § 1.56. Any inference of impropriety drawn from a reading of our original decision would be contrary to the intent of the panel in writing that decision.

Appellant's first main argument is that the decision of the Board misconstrues and ignores the true invention. According to appellant, the invention requires that the loading/unloading section of the library must also be one of the storage bins of the library. This feature allows a single manipulator unit to perform cassette loading and unloading as well as cassette

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retrieval and playback on a tape transport [Request, pages 4-5]. We find that claim 1 is not limited to this argued invention notwithstanding appellant's arguments to the contrary. We also find that the applied prior art suggests such a feature even if the claim is so limited.

In considering what claim 1 is directed to, appellant argues that the "loading section" must be part of the claimed "library" [Request, page 7]. We have again considered the "cassette storage library" recitation of claim 1, and again find appellant's interpretation unsupported by the language of the claim. As the examiner noted in the rejection, claim 1 recites a cassette storage library, a cassette loading section and a cassette unloading section as three separate elements. The only basis for interpreting the language of claim 1 differently would be because of some obscure references in the disclosure that such a result was not part of the preferred embodiment. We do not find the references to the specification of the patent to be supportive of the proposition that the loading and unloading sections must be part of the library. As we noted in our original decision, we decline to read limitations appearing only in the specification into the claims.

Appellant also argues that the formatting, grammar and flow of claim 1 also supports the position that we have misconstrued the meaning of claim 1. This particular argument

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would certainly have a lot more authority if claim 1 had inserted a comma or colon after the word "having" and then listed the "components" of the library. The manner in which the first paragraph in the body of claim 1 is set out suggests nothing along the lines of which appellant now suggests. The examiner's interpretation of claim 1 is more accurate than appellant's interpretation and is the correct interpretation to use under the rule that claims are to be interpreted as broadly as reasonably possible.

Appellant argues that the Board's interpretation of the claims is inconsistent with that portion of claim 1 which recites the "cassette manipulator means for selectively moving cassettes between the loading section, unloading section, storage bins and tape transports." According to appellant, this recitation requires that a single manipulator move cassettes between each of these listed regions, a requirement that the teachings of the applied prior art cannot meet. We do not agree.

The automatic tape cartridge handling system of Jenkins clearly has a manipulator that meets this claim 1 recitation. Jenkins describes an LTR (Lift-Turn-Retrieve) unit which takes cartridges from the drum, places them in playback machines, retrieves them from the playback machines, and replaces them in the drum or unloads them from the system [column 2, lines 1-6]. The Jenkins system can be designed with a single LTR [note FIG.

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2]. Each LTR in Jenkins has five discrete operative positions: 1) either one of two drums (storage bins), 2) either one of two cartridge stacks (playback machines or tape transports), and 3) the loading and unloading chutes (sections) [column 8, line 65 - column 9, line 1]. Thus, a single manipulator in Jenkins is capable of moving cassettes from a loading section, storage bins, tape transports and an unloading section. Accordingly, even if the term "library" in claim 1 was construed to mean only those areas accessible by the manipulator means as argued, Jenkins would still teach that portion of the invention as recited in claim 1.

Appellant argues that the Board failed to provide any motivation for combining the teachings of Semmlow with Jenkins. With respect to claim 1, and in light of the proper interpretation of the claim as discussed above, the only difference between the scope of the invention as recited in claim 1 and the teachings of Jenkins resides in the recitation of stationary storage bins. In Jenkins the storage bins are located on a drum which can rotate to a position desired for access by a manipulator device. Semmlow teaches a similar system for the storage and retrieval of cassettes wherein the cassettes are retained in stationary storage bins either in a cylindrical shape [column 4, line 50] or in the shape of a rectilinear matrix [column 14, line 27]. The artisan would have found it obvious

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that the necessary relative movement between the manipulator and the storage bins, which is required in both Jenkins and Semmlow, could be effected by movement of either one of the elements or by movement of both as long as the necessary relative movement is the result. The artisan does not need a specific suggestion in the applied prior art to understand that a relative movement between two elements can be effected by moving either element. The obviousness of accessing cassettes in Jenkins by holding the storage bins stationary while moving the manipulator would have been readily apparent to the artisan in view of the teachings of Semmlow and the routine skill of the artisan.

Appellant argues that the teachings of Jenkins and Semmlow would not be combined because in Jenkins the storage bins are on the outside whereas in Semmlow the storage bins are on the inside. We fail to see any merit to this argument with respect to the invention of claim 1. Claim 1 recites nothing which makes the concepts of external or internal relevant to the invention. Besides, the manipulators in Jenkins and Semmlow have no perception of such concepts. The manipulators in Jenkins and Semmlow simply respond to control information to cause them to go to a particular location. How that location relates to the storage bins is of absolutely no import to the manipulator. Thus, the argument that the Semmlow teachings are not combinable with the Jenkins teachings due to the nature of external and

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internal storage bins is not material to the invention of claim 1 in our view.

With respect to claim 11, appellant argues that the Board's interpretation of the recitation of "exposing" as requiring only a link between the access opening and the storage bins is unreasonable. Specifically, claim 11 recites that the library includes "at least one exterior access opening exposing an access portion of the storage bins for loading cassettes into and removing cassettes from the storage library." There is no question that the system of Jenkins teaches an exterior access opening in the form of loading chute 36. Cassettes placed in loading chute 36 are movable to any of the storage bins within the library. Since cassettes placed in the loading chute (exterior access opening) are movable to any of the storage bins, the loading chute operates to "expose" the storage bins to access for loading cassettes into and removing cassettes from the storage library as claimed. This is consistent with the normal meaning of the term "exposing." Even though appellant's preferred embodiment may "expose" the storage bins in a different manner from Jenkins, such difference may not be used to read limitations into the claim which are not otherwise present.

Appellant argues that if the rotatable drum library of Jenkins is replaced with the internally oriented library of Semmlow, then the receiving compartment of Jenkins would not open

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into a central space nor would it be accessible by the manipulator. We fail to follow this reasoning. If the rotating drum of Jenkins is replaced by a rectilinear matrix of storage locations, this would have no effect whatsoever on what is accessible by the manipulator or whether the storage bins open into a "central space." The area surrounding the manipulator in Jenkins would still be considered a central space with respect to all the other elements.

Also, appellant's argument that the sensor means as interpreted by the Board requires that the receiving compartment of Jenkins be a storage bin of the library is not understood. First, such an interpretation would not be inconsistent with the proper construction of the claims as discussed above. Second, the reference to "a bin" in line 9 of claim 11 does not even require that this be the same bin as a "storage bin" as recited in line 4. Claim 11 only detects the presence of a cassette in "a bin," that is, any bin. Again, appellant is reading limitations into the claim which are not required.

In summary, we have carefully considered the arguments raised by appellant in its request for reconsideration, but we can find no errors in our original decision. We are still of the view that the invention set forth in claims 1-11 would have been obvious to the artisan in view of the teachings of Jenkins and Semmlow.

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We have granted appellant's request to the extent that we have reconsidered our decision of August 14, 1996, but we deny the request with respect to making any changes therein.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.137(a).

DENIED

ERROL A. KRASS
Administrative Patent Judge

Jerry Smith
JERRY SMITH
Administrative Patent Judge

LEE E. BARRETT
Administrative Patent Judge

BOARD OF PATENT

APPEALS AND

INTERFERENCES

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Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
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Ex parte ODETICS, INC.

Appeal No. 96-2118
Reexamination Control No. 90/003583¹

ON BRIEF

MAILED

AUG 14 1996

PAT.&T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before CARDILLO, JERRY SMITH and BARRETT, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-11, which constitute all the claims from reexamined patent number 4,654,727.

¹ Request filed September 29, 1994 for the reexamination of U.S. Patent 4,654,727, granted March 31, 1987, based on Application 06/720,591, filed April 8, 1985.

The claimed invention pertains to a tape cassette handling and sequencing system for automatically retrieving cassettes, playing the cassettes, and returning the cassettes to storage locations.

Representative claim 1 is reproduced as follows:

1. A tape cassette handling and sequencing system comprising:

a cassette storage library having a plurality of stationary storage bins, a cassette loading section for receiving cassettes to be stored in the storage bins and a cassette unloading section for receiving cassettes to be removed from the library;

a plurality of tape transports for playing cassettes stored in the library;

cassette manipulator means for selectively moving cassettes between the loading section, unloading section, storage bins and tape transports;

code reading means for reading an identification code located on each cassette; and

control means for (a) causing the code reading means to read the code on each cassette when the cassette is placed in the loading section to enable the control means to identify the cassette, (b) causing the manipulator means to move cassettes from the loading section to available storage bins and subsequently moving cassettes from the storage bins to the tape transports and then back to the storage bins or unloading section, and (c) controlling the operation of the tape transports to play cassettes therein in a desired sequence.

The examiner relies on the following references:

Cintron	3,885,217	May 20, 1975
Semmlow et al. (Semmlow)	3,938,190	Feb. 10, 1976
Bolick, Jr. (Bolick)	4,247,876	Jan. 27, 1981

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Neuhaeusser et al. (Neuhaeusser)	4,251,177	Feb. 17, 1981
Jenkins et al. (Jenkins)	4,271,440	June 02, 1981

Claims 1-11 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner offers Semmlow and Jenkins with respect to claims 1-3 and 8-11, alternatively adds Cintron with respect to claims 9 and 10, adds Bolick with respect to claims 4-6, and adds Neuhaeusser with respect to claim 7.

Rather than repeat the arguments of appellant or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the collective evidence relied upon and the level of skill in the particular art would have suggested to one of

ordinary skill in the art the obviousness of the invention as set forth in claims 1-11. Accordingly, we affirm.

Appellant has indicated that for purposes of this appeal the claims will stand or fall together in the following five groups: Group I has claims 1-3, Group II has claims 4-6, Group III has claim 7, Group IV has claims 8-10 and Group V has claim 11. Consistent with this indication appellant has made no separate arguments with respect to any of the claims within each group. Accordingly, all the claims within each group will stand or fall together. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Accordingly, we will only consider the rejection against claims 1, 4, 7, 8 and 11 as representative of all the claims on appeal.

With respect to the rejection of claims 1-3, the examiner has basically taken the position that Semmlow teaches all the features of claim 1 except for the code reading means and the means for identifying cassettes which are placed on the loading section. The examiner indicates that Jenkins provides these teachings and offers reasons why it would have been obvious to incorporate the code reading means of Jenkins in the Semmlow cassette handling system [answer, pages 4-5]. Appellant points

to several alleged flaws in the examiner's analysis which we will consider in turn.

Appellant's first argument is that the preprocessing station of Semmlow is not a loading or unloading section as asserted by the examiner and required by claim 1. We agree. We have carefully reviewed the teachings of Semmlow and are unable to discern any disclosure of how the cassettes in Semmlow are physically loaded into the device and removed from the device. The preprocessing station is simply one location within the Semmlow device where cassettes are processed before they are sent to the playing machine(s). It appears to have nothing to do with the manner in which cassettes are loaded and unloaded from the library. Thus, appellant is correct to argue that the analysis of the examiner is flawed.

Although it is difficult to fault appellant for simply pointing out the flaws in the examiner's analysis, appellant's arguments are a bit disingenuous because a loading and unloading area are clearly suggested by Jenkins if not by Semmlow. In filing this request for reexamination of their patent, appellant essentially looked at Jenkins as the main reference and the obviousness of combining the cassette storage assembly of Semmlow with the tape handling system of Jenkins (original request, page

2]. In other words, appellant recognized that the key question with respect to the teachings of Jenkins and Semmlow, as they apply to claim 1, was whether it would have been obvious to substitute the stationary cassette storage library as taught by Semmlow for the rotating drum library as taught by Jenkins. Thus, even though the examiner's rationale is clearly flawed, the issue remains as to whether claim 1 is patentable over the combined teachings of Jenkins and Semmlow. The test for obviousness is what the combined teachings of the references would have suggested to a person having ordinary skill in the art. In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981); In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991).

Of course, if Semmlow does not teach the loading and unloading sections as recited in claim 1, then it is important that Jenkins does in fact meet the recitations of claim 1. Appellant and the examiner spend a great deal of effort arguing the proper interpretation of the "cassette storage library" paragraph of claim 1. Appellant argues that the loading and unloading sections of claim 1 are required to be part of the library, while the examiner insists that claim 1 separately recites the library from the loading section and the unloading

section. On this particular point we find the examiner's analysis to be correct.

In reexamination proceedings claims are given their broadest reasonable interpretation consistent with the specification, and limitations appearing in the specification are not read into the claims. In re Yamamoto, 740 F.2d 1569, 1571, 222 USPQ 934, 936 (Fed. Cir. 1984). The specification of the original patent referred to the octagonal housing portion 12 as the library. The access openings 44 and 48 are described as being present for loading cassettes into the library and unloading cassettes from the library. Such description would suggest that the loading and unloading sections per se do not have to be considered as part of the library. They merely provide a way to insert cassettes into the library and remove cassettes from the library. Thus, claim 1 only requires that the prior art suggest a library of cassettes, a separate loading section for receiving cassettes to be stored in the library, and a separate unloading section for receiving cassettes to be removed from the library. Jenkins clearly meets this interpretation of the cassette storage library of claim 1.

Appellant also argues that the examiner's interpretation of the control means as recited in claim 1 has not properly

considered the requirements of In re Donaldson, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). More specifically, appellant argues that the function of verification performed by the Jenkins bar code reader is not the same as the instant invention which automates entry and logging of cassettes into the library and controls their subsequent movement within the system [brief, page 25]. We do not agree. Jenkins clearly teaches identifying cassettes as they are drawn into the loading chute [column 12, lines 51-54], tracking the movement of cassettes throughout the cassette handling system [column 2, lines 31-36], and controlling the desired sequence of play [column 2, lines 27-30]. Thus, the functions of the control means of claim 1 are clearly performed by Jenkins.

Appellant argues that there is no "interchangeability" between the "control means" of claim 1 and the asserted control means of Semmlow [brief, page 26]. This point is correct, however, the same thing cannot be said with respect to the control means of Jenkins. The structure of the control means of Jenkins appears to be essentially interchangeable with the control means of claim 1. Appellant's remaining arguments on the Donaldson question are directed to the deficiencies of Semmlow, even though Jenkins suffers from none of these same deficiencies.

When Jenkins is used to provide the primary control means of claim 1, then the equivalents required by Donaldson are taught by Jenkins.

The examiner in his response to arguments made in the brief conceded that certain teachings he relied on in Semmlow may not be present, but he argued that such deficiencies were nevertheless made up by the teachings of Jenkins. Appellant responded with a reply brief that argued two main points of error. The first point was that the examiner's apparent late recognition of the correct teachings of the references clearly evidences that the claimed invention resulted from a non-obvious combination of the teachings of the references because the examiner had apparently used hindsight. The second point was that the Jenkins and Semmlow devices were basically incompatible and combining their teachings would lead to an inoperable system.

With respect to the first point, we are aware of no rule that an examiner's misreading of a reference constitutes evidence that a corrected reading must be based upon hindsight. References teach what they teach to the artisan regardless of whether any one person may misread the reference. The proposed combination of Jenkins and Semmlow is not simply based upon hindsight because it formed the substantial new question of

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patentability upon which appellant requested to have the original patent reexamined.

With respect to the second point, appellant appears to argue that since Jenkins relates to a cassette handling system in which the cassette storage locations are movable, and since Semmlow relates to a cassette handling system in which the cassette storage locations are stationary, the teachings of the two references are totally incompatible. Appellant uses the wrong standard for obviousness and basically attributes no skill to the artisan whatsoever.

The invention as broadly recited in claim 1 requires nothing more than applying the Jenkins cassette control teachings to a cassette storage library of the Semmlow variety. Skill is presumed to be possessed by the artisan. In re Sovish, 769 F.2d 738, 742, 226 USPQ 771, 774 (Fed. Cir. 1985). Also, the artisan is presumed to know something about the art apart from what references literally disclose. In re Jacoby, 309 F.2d 513, 516, 135 USPQ 317, 319 (CCPA 1962). When considering the teachings of Jenkins and Semmlow, the artisan would not attempt to physically substitute the structure of one reference for the other. The artisan would recognize that certain modifications would have to be made to the teachings of the references to obtain

compatibility of their respective teachings. It is the teachings rather than the structures of the references which are combinable within 35 U.S.C. § 103 from the references' teachings. In re Keller, supra.

In summary, we find the combined teachings of Jenkins and Semmlow would have suggested the obviousness of the invention as recited in claim 1. Even though we affirm the examiner's rejection for different reasons than those advanced by the examiner, our position is still based upon the collective teachings of the references and does not constitute a new ground of rejection. In re Bush, 296 F.2d 491, 496, 131 USPQ 263, 267 (CCPA 1961); In re Boyer, 363 F.2d 455, 458 n.2, 150 USPQ 441, 442 n.2 (CCPA 1966). Therefore, we sustain the rejection of claims 1-3 as unpatentable over the combined teachings of Jenkins and Semmlow.

With respect to claim 8, this claim recites the additional limitation of a storage means storing alterable data corresponding to each cassette in the library. Appellant basically argues that Semmlow does not suggest this claimed feature. Since we are of the view that Jenkins does suggest this claim limitation, appellant's argument is not persuasive. The language of claim 8 is broad enough to be met by a storage means

for storing location data of each cassette moving within the cassette handling system. As cassettes are moved in Jenkins, the location of each cassette is maintained in the memory of the control means and is altered as the location of each cassette changes within the transport system. Thus, the invention as broadly recited in claim 8 would have been obvious in view of the teachings of Jenkins and Semmlow. Therefore, we sustain the rejection of claims 8-10 as unpatentable over the combined teachings of Jenkins and Semmlow. Since we find Cintron unnecessary to support the rejection of claim 8, the alternative rejection of claims 9 and 10 with Cintron added is also sustained.

With respect to claim 4, this claim recites the additional limitation of a plurality of cassette grasping mechanisms. The examiner additionally applied Bolick for the teaching of a plurality of cassette grasping mechanisms located in a common horizontal plane. Appellant argues that there is no motivation for applying the teachings of Bolick to the Semmlow system. In the art of moving cassettes from location to location, Jenkins suggests that a plurality of transfer mechanisms is possible ["at least one," column 1, lines 67+]. Bolick teaches one way in which plural cassettes can be moved

from location to location. The question of the combinability of the teachings of Bolick with those of Jenkins has nothing to do with the type of cassettes being moved. The problem of moving cassettes from one location to another is a controlled movement problem, and is present without regard to specific details of the article being moved. The invention as broadly recited in claim 4 would have been obvious in view of the plural mechanisms suggested by Jenkins and the plural movement assembly of Bolick. Therefore, we sustain the rejection of claims 4-6 as unpatentable over the teachings of Jenkins, Semmlow and Bolick.

With respect to claim 7, this claim recites the additional limitation of a cassette holding shelf which is tilted downward from a front opening. The examiner additionally applied Neuhaeusser as a teaching of storing cassettes in a tilted manner. In addition the examiner explained why it would have been obvious to tilt the cassettes in Jenkins or Semmlow. Appellant argues that there is no suggestion within the references that such a modification take place, and that the examiner's reliance on common sense is inappropriate. However, obviousness may be concluded from common knowledge and common sense of the artisan without a specific hint or suggestion. In re Bozek, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969). We

fail to see error in the examiner's analysis as applied to the breadth of the tilted limitation as recited in claim 7.

Accordingly, we sustain the rejection of claim 7 as unpatentable over the combined teachings of Jenkins, Semmlow and Neuhaeusser.

With respect to claim 11, this claim is an independent claim similar to claim 1 but with some different recitations. The examiner basically rejected claim 11 for the same reasons he had given with respect to claim 1. Appellant argues that Semmlow cannot meet the limitation of "at least one exterior access opening exposing an access portion of the storage bins for loading cassettes into and removing cassettes from the storage library." While we agree that Semmlow does not teach this feature for reasons discussed above, we are of the view that Jenkins meets this recitation when given its broadest reasonable interpretation. Exposing an access portion of the storage bins merely requires that the access opening have a link to the storage bins. Jenkins meets this limitation.

Appellant also argues that the claim 11 recitation of a "sensor means for detecting when a cassette is inserted into a bin through the access opening" is not met by the examiner's proposed construction of the references [brief, pages 40-41]. While Semmlow may not meet this recitation, Jenkins clearly

teaches the sensing of a cassette in the receiving compartment 228 by way of optical sensors 258 and 259. The receiving compartment of Jenkins is considered to be a bin within the broad reasonable interpretation of that term. Claim 11 does not require that all storage bins be of the same type for holding single cassettes.

Appellant further argues that function (b) of the control means of claim 11 is not performed by the examiner's proposed combination. For reasons we have discussed above, we find the functions of the control means to be fully performed by the control means of Jenkins using the same or equivalent structure. Therefore, we sustain the rejection of claim 11 as unpatentable over the teachings of Jenkins and Semmlow.

In summary, we have sustained all of the examiner's rejections so that the decision of the examiner rejecting claims 1-11 is affirmed.

Further proceedings in this case may be taken in accordance with 35 U.S.C. §§ 141 to 145 and 306, and 37 CFR §§ 1.301 to 1.304. Note also 37 CFR § 1.197(b). If the patent owner fails to continue prosecution, the reexamination proceeding will be terminated, and a certificate under 35 U.S.C. § 307 and

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37 CFR § 1.570 will be issued cancelling the patent claims, the rejection of which have been affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

RAYMOND F. CARDILLO, Jr.
Administrative Patent Judge

Jerry Smith
JERRY SMITH
Administrative Patent Judge

BOARD OF PATENT

APPEALS AND

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LEE E. BARRETT
Administrative Patent Judge

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